



STATE OF MICHIGAN  
DEPARTMENT OF EDUCATION  
LANSING

RICK SNYDER  
GOVERNOR

SHEILA A. ALLES  
INTERIM STATE SUPERINTENDENT

July 16, 2018

Pat Devlin, President  
Board of Directors  
Detroit Community Schools  
12675 Burt Road  
Detroit, Michigan 48223

Dear Mr. Devlin:

In my letter to you dated October 10, 2017, I requested information pertaining to Sharon McPhail's role at Detroit Community Schools (DCS); specifically, I requested documentation explaining Ms. McPhail's current title, role, and job duties at DCS, as well as her annual contracted salary and the effective date of the contract. In addition, I requested the name of the person acting as the superintendent.

To date, DCS has failed to provide the requested information. As such, this letter was prepared in reliance on information that is available to me.

As you are aware, the Revised School Code requires DCS to comply with the terms of its contract with Bay Mills Community College and all applicable law. Pursuant to the contract, DCS is required to have a superintendent. As noted in the April 14, 2017 final decision and order of the State Superintendent, the Revised School Code requires an individual who is either employed as a superintendent or whose assigned duties are those commonly understood to be those of a superintendent to possess school administrator certification.

In 2016, the Department notified DCS that because Ms. McPhail was employed by DCS but was not properly certified as an administrator, DCS was in violation of the Revised School Code. Pursuant to the State School Aid Act, the Department began assessing a penalty against DCS in the amount of the salary paid to Ms. McPhail, which would continue to be assessed as long as DCS employed McPhail. However, the ongoing penalty was discontinued based on representations DCS made to the Department that, as of August 1, 2017, Ms. McPhail was no longer employed as a superintendent at DCS. However, in light of recent information, the Department has reason to believe that Ms. McPhail may still be acting as superintendent for DCS. DCS was given an opportunity to demonstrate that Ms. McPhail is not acting as superintendent of DCS by providing the information requested in my October 10, 2017 letter, but DCS has not done so. Because DCS has failed to provide any evidence to contradict the information the Department has received, I have no choice but to proceed based on the information that is available, which indicates that Ms.

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McPhail is still performing the duties of a superintendent regardless of the various titles DCS has given her.

The information makes it abundantly clear that Ms. McPhail has a primary role in the day to day operations of DCS and significant management authority with respect to DCS's business affairs. For example, the following materials list Ms. McPhail's title at DCS:

- McPhail is listed as the Chief Administrative Officer in minutes from the board of directors meetings held July 20, 2017; August 31, 2017; September 21, 2017; October 31, 2017; November 16, 2017; December 5, 2017; January 18, 2018; February 15, 2018; and March 15, 2018.
- McPhail prepared Chief Administrative Officer Reports to the board for discussion at meetings.
- McPhail is listed as the superintendent of DCS on the Center for Educational Performance and Information (CEPI) website as well as on the parent dashboard for school transparency.
- McPhail is listed as Lead Administrator in a CEPI report identifying public school academies with education service providers and chartering agencies.

Evidence of Ms. McPhail's duties as Chief Administrative Officer includes the following:

- A resolution at the July 20, 2017 board meeting approves Ms. McPhail to sign checks, drafts, or other orders for payment from DCS's bank account.
- A resolution approved at the February 15, 2018 board meeting states that "the Chief Administrative Officer is hereby charged with general supervision of the execution of the budget adopted by the Board and shall hold the department heads responsible for performance of their responsibilities within the amounts appropriated by the Board of Education and in keeping with budgetary (sic)"
- Minutes from the January 18, 2018 board meeting incorporate a document titled "Policies and Procedures-Federal Awards Administration" that states the Chief Administrative Officer is (i) responsible for obtaining information on the annual adjustments to the MDE's competitive bid threshold, (ii) authorized to make purchases for allowable and necessary items, (iii) responsible for logging check activity into a cash flow spreadsheet; (iv) responsible for developing a standard employee expense report reimbursement form; (v) responsible for reviewing and approving expense reports of the administrative leadership team and submitting expense reports of the CAO directly to the board president; (vi) responsible for compiling information on disbursements and presenting the information to the board at monthly meetings; (vii) initialing deposit slips; (viii) responsible for initiating cash draws; and (ix) responsible for overseeing and controlling transactions that may be subject to suspension or debarment procedures.

- The January 18, 2018 Chief Administrative Report prepared by McPhail contains reports to the board on various matters including academic achievement, student engagement, parent engagement, community engagement, financial updates, and the status of ongoing projects.

DCS has provided conflicting information to the Department and to Bay Mills relating to Ms. McPhail's title at DCS. DCS has made statements that McPhail is general counsel for DCS, a position that is not recognized by the contract, while subsequently stating that McPhail is the Chief Administrative Officer, who is DCS's Chief Business Officer. DCS expressly stated that as general counsel, Ms. McPhail is a contractor, not an employee, of DCS, but subsequently stated that the position of general counsel is not a contractual position.

The conflicting information presented by DCS and lack of evidence demonstrating Ms. McPhail's job duties strongly detract from the credibility of DCS's position in this matter. As the Superintendent noted in the April 14, 2017 decision, the determination of whether certification is required is not dependent on the label assigned to an individual's position but on the nature of the position. If the duties assigned to an individual are those commonly understood to be those of a superintendent, school administrator certification is required. At this point, the information available to the Department establishes that Ms. McPhail is performing the duties of a superintendent; she is not employed solely as a chief business official.

It is the responsibility of the Michigan Department of Education to ensure that administrators hold the certification that is required by law. If Ms. McPhail is employed as a superintendent, regardless of her title and regardless of whether the administration of instructional programs is her primary responsibility, she is required to hold a valid school administrator certificate.

Please submit the documentation described in my October 10, 2017 letter, including any additional information that identifies DCS's superintendent or chief administrative officer. You may submit the requested documentation to me at Michigan Department of Education, Office of Educator Excellence, 608 West Allegan Street, Lansing, Michigan, 48909, **by July 31, 2018**. Alternatively, you may e-mail the documentation to me at [BreenL1@michigan.gov](mailto:BreenL1@michigan.gov) by **July 31, 2018**.

Absent timely submission of the requested information, the Department of Education will proceed to reinstate the salary penalty as required by the State School Aid Act based on evidence that Ms. McPhail is occupying the role of a superintendent.

Should you have further questions regarding this request, please contact me.

Sincerely,  
  
Leah Breen, Director  
Office of Educator Excellence  
Michigan Department of Education

cc: Michael C. Parish, President, Bay Mills Community College

